

REMARKS/ARGUMENTS

This is a response to the Office Action dated August 3, 2010. Claims 1-11 were pending in the Office Action with claims 1 and 11 in independent form. By the present Amendment, Applicant has amended claims 1 and 11 and has added new claim 12. Claims 1-12 are now in this action.

Claim 1 has been rejected for the first time under 35 U.S.C. §112, second paragraph, as allegedly being indefinite. Claim 1 has also been rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent No. 5,148,912 to Nozawa in view of U.S. Patent No 6,460,412 to Smith et al. (hereinafter “Smith”). Claims 2-7, 9 and 10 have been rejected under 35 U.S.C §103(a) as allegedly being unpatentable over Smith in view of U.S. Patent No. 6,041,477 to Rentsch et al. (hereinafter “Rentsch”). Claim 8 has been rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Nozawa in view of Rentsch and further in view of U.S. Patent Publication No. 2002/0079282 to Harrold et al. (hereinafter “Harrold”). Applicant respectfully requests reconsideration of these rejections.

Applicant appreciates the courtesy extended to Applicant’s undersigned attorney during the in-person interview of November 4, 2010. During the interview, the Examiner agreed to withdraw the finality of the present Office Action since this was the first time the rejections under Section 112 were raised. In addition, agreement was reached to distinguish the claims over the cited art. Amended claims 1 and 11 and new claim 12 are presented herein which reflect this agreement.

Claim 1 has been amended to recite that the fixing means has “substantially the same diameter as the opening.” As was discussed during the interview, none of the cited art shows or suggests this feature. Claim 1 is also amended to clarify that “the body and the lid are separated from each other by a circumferential gap.” This amendment also eliminates the allegedly unclear language regarding the positioning of the lid immediately adjacent the opening.

Accordingly, Applicant respectfully submits that amended claim 1, and the claims depending therefrom, are patentable over the cited art and are in condition for allowance.

Claim 11 has been amended to recite that the ring shaped body is “configured such that the neck of the bottle extends above the ring shaped body.” As was discussed during the interview, the cited art does not disclose a closure including this feature. Claim 11 is also

amended to eliminate the allegedly unclear language regarding the positioning of the lid immediately adjacent the opening.

Accordingly, Applicant respectfully submits that amended claim 11 is patentable over the cited art and are in condition for allowance.

New claim 12 relates to a closure that includes, among other things, “a plurality of bridge elements connected between the ring shaped body and the lid along an inner periphery of the circumferential gap.” As was discussed during the interview, none of the cited references show or suggest a closure including this feature.

Accordingly, Applicant respectfully submits that new claim 12 is patentable over the cited art.

In light of the remarks and amendments made herein, Applicant respectfully submits that claims 1-12 are patentable over the cited art and are in condition for allowance.

Favorable reconsideration of the present application is respectfully requested.

THIS CORRESPONDENCE IS BEING
SUBMITTED ELECTRONICALLY
THROUGH THE PATENT AND
TRADEMARK OFFICE EFS FILING
SYSTEM ON December 3, 2010.

DAM/KJB

Respectfully submitted,


Keith J. Barkans
Registration No.: 51,431
OSTROLENK FABER LLP
1180 Avenue of the Americas
New York, New York 10036-8403
Telephone: (212) 382-0700